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15  
16 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

17 QUY NGOC TANG, LEOPOLD GEMMA, ) Docket:  
and DANIEL BALDONADO, )  
18 individually and on behalf of )  
all others similarly situated, )  
19 ) COMPLAINT  
Plaintiffs, )  
20 vs. )  
21 WYNN LAS VEGAS, LLC, ANDREW )  
PASCAL and STEVE WYNN, )  
22 )  
Defendants. )  
23 \_\_\_\_\_ )

24 COMES NOW Plaintiffs, QUY NGOC TANG, LEOPOLD GEMMA and  
25 DANIEL BALDONADO Plaintiffs, for themselves and all others  
26 similarly situated, through their attorneys, allege the following  
27 upon personal knowledge as to themselves and their own acts, and  
28 upon information and belief as to all other matters:

## JURISDICTION AND VENUE

2       1. This Court has jurisdiction pursuant to Section 16(b) of  
3 the Fair Labor Standards Act, 29 U.S.C. §216(b), which provides, "An  
4 action to recover the liability prescribed in either of the  
5 preceding sentences may be maintained against any employer...in any  
6 federal or state court of competent jurisdiction by any one or more  
7 employees for and on behalf of himself or themselves and other  
8 employees similarly situated." A "Consent to Joinder" form for each  
9 plaintiff has been filed with this Complaint or previously filed  
10 with the Court.

11       2.     Venue is proper in the United States District Court for  
12 Nevada because Defendants conduct business in Clark County Nevada,  
13 plaintiffs reside in Clark County, Nevada, plaintiffs worked for  
14 defendants in Clark County, Nevada, and the acts complained of  
15 herein happened in or around Clark County, Nevada.

16 | BACKGROUND AND PARTIES

17       3. Plaintiffs QUY NGOC TANG, LEOPOLD GEMMA and DANIEL  
18 BALDONADO (the "individual plaintiffs"), on behalf of themselves  
19 and all others similarly situated (collectively "Plaintiffs"), by  
20 their attorneys, bring this action against defendants.

21       4. The defendants ANDREW PASCAL and STEVE WYNN are, for  
22 the purposes of the claims made herein under the Fair Labor  
23 Standards Act, 29 U.S.C. § 201 et seq. (the "FLSA"), employers of  
24 the plaintiffs as they have acted on behalf of an employer and/or  
25 acted as an employer by willfully, intentionally, knowingly or  
26 otherwise promoting, allowing, directing or otherwise creating the  
27 compensation policies alleged herein that violate the FLSA, such

1 individual defendants also exercising the power they had with the  
2 other defendant WYNN LAS VEGAS, LLC by virtue of their status as  
3 officers and/or managers and/or owners of the same to continue,  
4 create, or allow such policies to flourish and remain in existence.

5       5. WYNN LAS VEGAS, LLC is a limited liability corporation  
6 formed and existing pursuant to the laws of the State of Nevada and  
7 having its principle place of business in Clark County, Nevada.

8           **AS AND FOR CLAIM FOR RELIEF UNDER THE FAIR LABOR STANDARDS ACT**

9       6. The defendants employ the plaintiffs and hundreds of other  
10 persons as casino dealers in their casino, the Wynn Las Vegas.

11       7. Pursuant to Section 16(b) of the FLSA, the individual  
12 plaintiffs bring this Complaint as a collective action (also  
13 commonly referred to as an "opt-in" class or "the FLSA class"), on  
14 behalf of themselves and all persons similarly situated who consent  
15 to join this litigation by filing a written consent with the Court  
16 and who also agree to be represented by plaintiffs' counsel, such  
17 persons making claims under the FLSA for the three (3) years  
18 preceding the filing of this Complaint or the filing with the Court  
19 of each such person's written consent to joinder until entry of  
20 judgment after trial.

21       8. Plaintiffs are informed and believe, and based thereon  
22 allege that there are at least 500 putative FLSA class members who  
23 could "opt in" to this case, the actual number of FLSA class members  
24 is readily ascertainable by a review of the defendants' records  
25 through appropriate discovery, and the plaintiffs propose to take  
26 proceedings in this action to have such persons notified of this  
27 litigation and given an opportunity to file written consents to join  
28

1 this litigation.

2       9. Defendants are an enterprise engaged in commerce within  
3 the meaning of the FLSA that uses and/or produces or ships goods in  
4 interstate commerce or goods that have so moved in interstate  
5 commerce and have gross revenue in excess of \$500,000 a year and/or  
6 are otherwise an employer subject to the provisions of the FLSA in  
7 respect to their employment of the plaintiffs.

8       10. Pursuant to 29 U.S.C. § 206 and § 207 the defendants are  
9 charged with an obligation to pay the minimum wage and overtime  
10 wages required by the FLSA to the plaintiffs.

11      11. Defendants have failed and refused to make the minimum wage  
12 and/or overtime payments required by the FLSA to the plaintiffs  
13 because they have violated 29 U.S.C. § 203(m) of the FLSA, to wit,  
14 they have failed to allow the plaintiffs to retain for themselves,  
15 or retain for themselves through a tip pool structured in compliance  
16 with the provisions of the FLSA and otherwise authorized by the  
17 FLSA, all of the tips they have received from customers during the  
18 course of their employment by the defendants.

19      12. Defendants have required the plaintiffs, as a condition of  
20 their employment, to pool and share their tips with other employees  
21 who do not customarily and regularly receive tips, such tip pool  
22 and/or tip sharing not being authorized under the FLSA and its  
23 relevant implementing regulations and/or have required the  
24 plaintiffs to give a portion of their tips to other employees of the  
25 defendants in a manner that violates the FLSA.

26      13. Defendants, by implementing the policies alleged in  
27 paragraph 12, have effectively failed to pay any wages whatsoever to  
28

1 the plaintiffs, in that defendants recoup from the plaintiffs,  
2 through the taking of a portion of the plaintiffs' tips, an amount  
3 far in excess of the amount it nominally pays to the plaintiffs from  
4 the defendants' own funds, such actions by the defendants violating  
5 the purpose and intent of the FLSA which is to make all employers  
6 pay FLSA required minimum wages and overtime wages and all other  
7 wages solely from the resources of the employer and not by  
8 appropriating employee tips to make such wage payments the FLSA also  
9 preventing an employer from engaging in such an appropriation by  
10 using a tip pool, such as the one used by defendants, to compensate  
11 employees who do not regularly and customarily receive tips with a  
12 portion of the tips received by other employees who do regularly and  
13 customarily receive tips.

14

15 14. Defendants' aforesaid violations of the FLSA were  
16 intentional, willful and knowing.

17

18 15. As a result of the foregoing the plaintiffs, on behalf of  
19 themselves and all other persons who join in this action by filing  
20 written consents with the Court and who agree to be represented by  
21 plaintiffs' counsel, seek to collect their full damages for the  
22 defendants' aforesaid violations of the FLSA, to wit, the value of  
23 the tips taken from them by the defendants and given by the  
24 defendants to other employees of the defendants who do not  
25 customarily and regularly receive tips or given to other employees  
26 whom the plaintiffs cannot be required to share their tips with  
27 under the FLSA, or whatever other measure of actual damages they are  
28

1 due from defendants' aforesaid violations of the FLSA, along with an  
2 equal amount of liquidated damages as provided for under 29 U.S.C. §  
3 216(b), together with attorneys' fees, costs, interest and such  
4 other relief as the Court may deem proper.

5

6 WHEREFORE, plaintiffs demand the relief on each cause of action  
7 as alleged aforesaid, together with costs, interest, attorney's fees  
8 and such other relief as the Court deems just.

9

10 Plaintiffs demand a trial by jury on all issues so triable.

11

Dated this 9th day of July, 2009.

12

Leon Greenberg Professional Corporation

13

/s/

14

By: \_\_\_\_\_

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LEON GREENBERG, Esq.

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(702) 383-6085

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Attorney for Plaintiff

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CONSENT TO JOINDER

By signing below I hereby consent to join this case as a plaintiff pursuant to 29 U.S.C. 216(b) and be represented by the attorneys Leon Greenberg, Mark Thierman, J.P. Kemp and Robin Potter pursuant to a written retainer agreement I have executed with them.



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SIGN YOUR NAME

Leopold Greenberg  
PRINT YOUR NAME

CONSENT TO JOINDER

By signing below I hereby consent to join this case as a plaintiff pursuant to 29 U.S.C. 216(b) and be represented by the attorneys Leon Greenberg, Mark Thierman, J.P. Kemp and Robin Potter pursuant to a written retainer agreement I have executed with them.

Daniel Baldonado  
SIGN YOUR NAME

Daniel M Baldonado  
PRINT YOUR NAME

CONSENT TO JOINDER

By signing below I hereby consent to join this case as a plaintiff pursuant to 29 U.S.C. 216(b) and be represented by the attorneys Leon Greenberg, Mark Thierman, J.P. Kemp and Robin Potter pursuant to a written retainer agreement I have executed with them.

Z M Jm  
SIGN YOUR NAME

DUY NGOC TANG  
PRINT YOUR NAME